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SUBJECT: JAMAICA: FATAL POLICE SHOOTINGS AND EXTRAJUDICIAL EXECUTIONS

REF: (A) 07 KINGSTON 1301

- (B) 07 KINGSTON 1462
- (C) 07 KINGSTON 1805
- (D) 08 KINGSTON 219
- (E) 07 KINGSTON 1813

Summary:

¶1. (U) Local Human Rights NGO Jamaicans for Justice (JFJ) released a joint study with George Washington University (GWU) law school on fatal police shootings in Jamaica. According to the report, there were over 270 victims of police killings in 2007, nearly a fifth of all murders committed last year. The motives behind unlawful killings range from reckless or negligent homicides, to calculated vigilantism, to corruption and political polarization. The report cites deeply deficient police investigations; a lack of effective independent oversight; and pervasive pro-police bias among investigators, prosecutors and judges as factors allowing this trend to continue. End Summary.

Background: Police shootings in Jamaica

¶3. (U) Since 2004, over 700 people have been shot and killed by police under circumstances that, in a "substantial percentage" of cases, point to summary or arbitrary executions. In 2007 alone, a record year for the third year in a row, 272 people died violently at the hands of Jamaican police, the majority of them probable victims of extrajudicial executions. (Another 153 were shot and injured.) For years, national and international human rights organizations have denounced the longstanding practice of excessive use of lethal force by Jamaica Constabulary Force (JCF) officers. They also have echoed the popular sentiment that such police violence is generally directed at persons belonging to lower socio-economic sectors who reside in marginal or "inner-city" neighborhoods.

¶4. (U) One of the principal factors motivating the surge of police killings is the persistence of impunity, which traditionally has protected perpetrators from prosecution in the vast majority of such cases. The minuscule number of police shooting cases involving fatalities or injuries that actually make it to the criminal courts -- less than 10 percent of the total since 1999 -- is testimony to the persistent obstacles to accountability. In all that time, there has been only one conviction for murder by a police officer, in **¶2006**. In a seminal 2004 report on the subject, Jamaicans for Justice (JFJ), a non-profit, non-partisan citizens' rights action group, revealed not only that police killings continued, but also that there existed a parallel "pattern of impunity" flowing from the failure of the Jamaican justice system to respond adequately or effectively to this practice. The JFJ report diagnosed a series of

institutional deficiencies in the investigation and prosecution of police perpetrators that continue to be of critical importance to the present day. Without proper investigations or true accountability for arbitrary or unlawful police conduct, there is little incentive for agents to control it.

Goals of the report

¶5. (U) The Report conducted by JFJ with assistance from the GWU law school seeks to update JFJ's study with respect to the escalating number of fatal police shootings and extrajudicial executions since 2004, as well as the "pattern of impunity" that feeds it. In addition to providing the latest empirical evidence on police killings, it examines the recent functioning of the authorities, mechanisms, and procedures charged under Jamaican law with ensuring that police who exceed their legal mandate in the use of lethal force are held accountable. The initial objective of the report is to paint a comprehensive picture of the full-scale human rights crisis prevailing in Jamaica today in this regard. The second objective is to analyze this situation in light of Jamaica's legal obligations under the American Convention on Human Rights to determine precisely how and why the country is seriously out of compliance with prevailing standards of civilized conduct.

Political will for change

¶6. (U) Despite the serious allegations of the report, JFJ does hold out hope for the current Government of Jamaica (GoJ) to address these issues. Prime Minister Bruce Golding (PM Golding) and the ruling Jamaica Labour Party (JLP) have made crime one of the pillars of their manifesto released at the start of the 2007 election campaign (Ref A). The challenges facing the JLP-led government of PM Golding when he took office in September of 2007 were no less daunting than those faced by his predecessors. The problem of

violent crime remains critical: Jamaica manifests a per capita homicide rate that is one of the highest in the world (Ref B). Well-armed gangs trafficking in narcotics and guns exercise control in many inner-city communities. In 2007 19 police officers were killed in the line of duty; in 2006 10 officers were killed and 2005 the number was 13.

¶7. (U) The first major step to address the issue of crime and lack of professionalism in the JCF was the appointment of Rear Admiral Hardley Lewin, a 27 year veteran of the Jamaica Defense Force (JDF), as the Commissioner of Police in December 2007. He brings a no-nonsense, strictly disciplined approach to managing the force of approximately 8,000 police officers. He has already announced several organizational changes of the force, including combining existing sub-units and moving officers to different posts throughout the island. In his inaugural press conference in December, Lewin recognized that the JCF's hard-line approach had not worked. Violent crime and homicides have not been reduced significantly, he said, and "too much killing" had continued. Stating that "you cannot fight fire with fire," Commissioner Lewin announced a comprehensive new strategy to shift the focus of law enforcement away from a "war-on-crime" model premised on concerted use of force, to one that stresses the role of a modern, professionalized police organization allied with civil society in communities throughout the country to address the root causes of crime, as well as its consequences. He acknowledged that there should be greater accountability for police abuses. In response to specific questions about the wave of apparent extrajudicial killings by police, he insisted that such cases would be "dealt with seriously and ruthlessly," and invited public scrutiny of the implementation of his new policies (Ref C).

¶8. (SBU) As noted Ref (D), during a meeting with DAS Madison in late February, Commissioner Lewin advised that he plans to equip the police with mace (they will still carry side arms), as a non-lethal alternative in responding to enforcement situations. He announced on March 10 that the JCF is doing away with the U.S.-made M-16 assault rifle in favor of the less deadly MP5 sub-machine gun from Heckler and Koch of Germany. According to the announcement, only members of the Mobile Reserve, a special squad formed to deal with civil unrest and/or national emergencies, will be allowed to continue using the M-16. The Commissioner has also moved to lighten

the caseload of the Bureau of Special Investigations (BSI), the unit responsible for investigating all police shootings, by taking away over 400 cases which did not involve serious injury or death from BSI to divisional levels in an attempt to ease the workload.

¶9. (U) Also encouraging are the actions of high ranking GoJ officials. A few days after security forces shot five men to death in west Kingston on January 13, 2008, Jamaican Prime Minister Bruce Golding visited the house where the killings took place. He observed that the manner in which the men were slain "raises questions that must be answered," and called for an immediate coroner's inquest. The press similarly reported on the September 20, 2007 visit of two Cabinet Ministers, including Minister of National Security, Derrick Smith, to a community in Kingston where police had fatally shot two people two days before, one of them a 19 year-old pregnant woman killed by a stray police bullet. The day after the shootings, Attorney General and Minister of Justice Dorothy Lightbourne issued a press release to express her concern over the incident. At the same time, she quoted the Prime Minister to reiterate the government's commitment to establishing a "single, independent authority to investigate instances of abuse by members of the security forces."

Prosecuting Police

¶10. (U) JFJ and other NGOs are very critical of the low percentage of police shootings that are prosecuted, and the even lower percentage of convictions. Under the current system, after BSI completes its investigation a report is sent to the Commissioner's office and to the Police Public Complaints Authority (PPCA) which reviews the case and submits cases of possible police misconduct to the Director of Public Prosecutions (DPP) Office. The DPP makes the sole determination on whether to prosecute, and as the statistics reveal, prosecutions of police very seldom happen in Jamaica. In 2006, the U.N. Special Rapporteur on extrajudicial, summary or arbitrary executions reported that "From October 1999 to February 2006, not a single police officer was found guilty on charges related to the fatal use of force, although more than 700 persons had been killed by the police during these six years."

New DPP offers hope for improvement

¶11. (SBU) The DPP is appointed by the Public Service Commission and the position is authorized specifically by the Constitution, he/she thus can only be removed from office by way of retirement,

resignation or impeachment by a special tribunal if accused of misbehavior. This office, like the commissioner, has a new no-nonsense boss, Paula Llewellyn, who replaces the retiring Ken Pantry. Pantry was much criticized by human rights NGOs and the media for a lack of transparency and a tendency to take offence at any question or challenge of any action by his office. Llewellyn previously served as Senior Deputy Prosecutor under Pantry, but had a reputation for taking on difficult and high profile cases, including some involving members of the JCF and use of force. Thus, there is hope that she will bring reforms and increase the levels of professionalism and efficiency of the DPP.

Judiciary Inefficiencies

¶12. (U) Another major factor contributing to the pervasive impunity surrounding extrajudicial killings by police has been the ineffectiveness of the judicial system. A U.N Special Rapporteur in 2003 found that the criminal justice system did not possess the institutional capacity to deal with difficult cases of extrajudicial killings by police because, among other things, its proper functioning was "marred by a number of institutional obstacles and by a lack of resources." In particular, the Coroner's Court, the court of first instance which most often handles homicides including police shooting cases, was plagued by structural flaws including, among others, lack of resources, inadequate use of technology, failure to issue warrants for witnesses and failure of investigative bodies to send the evidence to Court.

Only the names are changed

113. (SBU) The local media is full of reports of police shootings, that when read in succession become a repeating record in which only the names of the victims change. Jamaicans have grown weary of hearing the same, dubious "official story" repeated in case after case. In almost all instances, the explanation given by police to deflect prosecution is that a "shoot-out" occurred in which police returned fire while defending themselves from armed individuals. Guns are repeatedly "found" at the scene of the shooting, purportedly belonging to the victim(s). In a recent case police officers pursuing a run-away taxi shot and killed an 11 month old baby and then fled the scene to avoid vigilante justice by a quickly forming mob. In this case, too, the police claim the taxi driver fired upon them first and that they were only returning fire in self-defense; a claim unsubstantiated by witnesses. (Note: Commissioner Lewin has suspended the officer responsible for the shooting, and removed the other involved officers from front line duties pending further investigation. End note.)

USG assistance with firearms training

114. (U) On January 9, Commissioner Lewin signed a Memorandum of Understanding with the Director of the Narcotics Affairs Section (NAS) which will result in repair and upgrades to the Fire Arms Training System (FATS) previously provided by NAS. As part of the MOU, the Commissioner is committed to a rigorous training and retraining program that will improve marksmanship and try to prevent police from shooting innocent bystanders during enforcement operations. At least 20% of the police force will be retrained within the first year of the upgraded "shoot-don't shoot" system.

Conclusion

115. (U) The UN Special Rapporteur in 2006 noted that, from October 1999 to February 2006, not a single police officer was found guilty on charges related to the fatal use of force, although more than 700 persons had been killed by the police during these six years. Not until later in 2006 was a police officer found guilty of murder. JFJ also notes that investigations of fatal police shootings by the JCF's Bureau of Special Investigations (BSI) were perfunctory and inadequate, thus failing to meet basic international standards. Their research confirms that there has been no progress in any of the critical areas related to police investigations, namely, preservation of crime scenes and collection of evidence; monitoring of weapons and munitions; ballistics and forensics; as well as witness protection.

116. (SBU) This predicament has led to PM Golding's initiative to establish an independent civilian investigative commission. Efforts are well underway in Parliament to create a single, independent authority to investigate instances of abuse by members of the security forces. The civilian inquiry commission proposed by the Government would have several characteristics designed to ensure its independence and address many of the issues discussed in the report by JFJ and GWU law school. In general, crime scenes are

rarely secured or controlled by police agents, who do not receive sufficient training for this purpose, thus leaving the scenes open to members of the public and relatives to disrupt (Ref E). For this reason, the specially trained civilian investigators in the Government's proposed independent inquiry commission would have full authority to immediately take over the crime scene of a fatal police shooting from local police and the BSI, as well as to direct the initial investigation.

117. (SBU) Coincidentally, Reneto Adams resigned/retired from the JCF effective in August. Although hailed by many Jamaicans as an anti-crime hero, he was strongly implicated in more than one major extra-judicial killing since 2001. Most recent was the Kraal case which was believed to have been politically motivated. Three people were murdered by the police. Before that, in July 2001, Senior Superintendent Adams led a raid in Denham Town (Kingston) in search of firearms. Twenty five civilians were killed along with one police officer and one soldier. At no time was Adams convicted, and the previous Commissioner of Police did not have grounds to fire

him. So, he was given a desk job and essentially did nothing at JCF headquarters during the past two years.

¶18. (SBU) Comment: The release of JFJ/GWU law school study highlights a longstanding problem that needs serious attention. The study supports Commissioner Lewin's efforts to transform the face of policing in Jamaica. Hopefully it will help spur legislative action that will facilitate planned changes. End Comment.

JOHNSON